

EXPEDITED PROCEDURE
Examining Group Number 2100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Daniel R. Marshall	Examiner:	Tammara R. Peyton
Serial No.:	09/759,867	Group Art Unit:	2182
Filed:	January 12, 2001	Docket No.:	10002307-1 (H303.191.101)
Due Date:	March 15, 2004		
Title:	PORTABLE INFORMATION STORAGE MODULE FOR INFORMATION SHOPPING		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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DECLARATION UNDER 37 C.F.R. § 1.131

Technology Center 2100

Sir/Madam:

I, Daniel R. Marshall, declare as follows:

1. I am the named inventor of the subject matter described and claimed in the above-identified U.S. Patent Application Serial No. 09/759,867, filed January 12, 2001.

2. The Office Action mailed on January 15, 2004 has been read and understood along with the references cited therein, and that I make this Declaration in support of the patentability of the claims of U.S. Patent Application Serial No. 09/759,867.

3. I, Daniel R. Marshall, am a consulting design engineer at Hewlett-Packard Company. I began my employment as a full-time design engineer at Hewlett-Packard Company on or about December 1, 1984. I left HP under an early retirement program in June, 2002 and have been a part-time design engineering consultant since September, 2002.

4. This Declaration under 37 C.F.R. § 1.131 is made in response to the rejection of claims 30 and 34 under 35 U.S.C. § 102(e) based on U.S. Patent Application Publication No. US 2002/0198958 A1 entitled "System and Method for the Delivery of Information", having a publication date of December 26, 2002 and a filing date of December 17, 2002. U.S. Patent Application Publication No. US 2002/0198958 A1 claims priority to U.S. Provisional Application Serial Nos. 60/256,469 filed December 20, 2000; 60/259,159 filed

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January 3, 2001; and 60/278,273 filed March 23, 2001. For the purposes of the January 15, 2004 Office Action, the earliest date that U.S. Patent Application Publication US 2002/0198958 A1 is available for use as prior art is the earliest provisional filing date of December 20, 2000.

5. Prior to the December 20, 2000 provisional filing date of U.S. Provisional Application Serial No. 60/256,469, cited by the Examiner as referenced above, I conceived the above-identified and claimed invention. The claimed invention was constructively reduced to practice via the filing of U.S. Patent Application Serial No. 09/759,867. As factual evidence of my conception prior to December 20, 2000, attached hereto and incorporated by reference herein, is Exhibit A.

6. Exhibit A is a confidential internal Invention Disclosure record of Hewlett-Packard Company. This Invention Disclosure document is entitled "Informational Storage Battery for Information Shopping" and has an internal Hewlett-Packard docket number of HPDN 10002307, and was conceived prior to the earliest prior art date of December 20, 2000 of the U.S. Patent Application Publication No. US 2002/0198958 A1.

7. After conceiving the claimed invention of the present application, I diligently filed U.S. Patent Application Serial No. 09/759,867 as described in Paragraphs 8-11 below.

8. HP Invention Record HPDN 10002307 was forwarded to the law firm of Dicke, Billig, & Czaja, P.L.L.C. requesting preparation of a U.S. Patent Application based upon Invention Record HPDN 10002307. Dicke, Billig, & Czaja, P.L.L.C. is now located at Fifth Street Towers, 100 South Fifth Street, Suite 2250, Minneapolis, MN 55402 and specializes in patent, trademark, and copyright law.

9. Thereafter, Michael R. Binzak, Registration No. 38,081 and Patrick G. Billig, Registration Number 38,080, of Dicke, Billig, & Czaja prepared a U.S. Patent Application based upon HP Invention Record HPDN 10002307. Such application is the present invention of U.S. Patent Application Serial No. 09/759,867.

Declaration under 37 C.F.R. § 1.131

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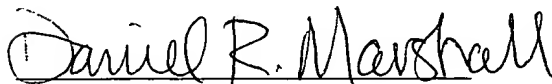
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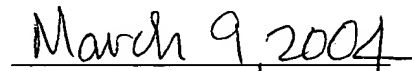
10. Attached hereto and incorporated by reference are Exhibits B and C. Exhibit B is a final draft application of the present invention, which was forwarded prior to December 20, 2000 via Federal Express Mail to Anthony J. Baca, in-house counsel for Hewlett-Packard Company, located in Boise, Idaho. As factual evidence of the Federal Express Mail transmission, attached hereto is Exhibit C, which is a "hard copy" of a cover letter to Anthony J. Baca.

11. On January 12, 2001, the present application, U.S. Patent Application Serial No. 09/759,867, was timely filed with the U.S. Patent and Trademark Office (U.S.P.T.O.).

12. It is therefore respectfully submitted that the present application claims an invention, which was conceived prior to December 20, 2000 and diligently filed with the U.S.P.T.O. Thus, the U.S. Patent Application Publication No. US 2002/0198958 A1 reference should be removed as a reference under 35 "U.S.C. § 102(e)."

12. I further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or patent issued thereon.


Daniel R. Marshall


Date